

Bruce Levinson, Esq. (BL-0749)
Law Offices of Bruce Levinson
747 Third Avenue, 4th Floor
New York, New York, 10017-2803
Telephone: (212) 750-9898
Facsimile: (212) 750-2536
b.levinson@verizon.net

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**DEL MONTE FRESH PRODUCE N.A.,
INC., GIUMARRA INTERNATIONAL
MARKETING, INC., and PACIFIC
FRUIT, INC.,**

Plaintiffs,

vs.

**ANA DISTRIBUTION, INC., a New York
corporation, and SUNG (SAM) G. KIM,**

Defendants.

CASE NO.: 1:07-cv-01887-DC

(consolidated)

JUDGE CHIN

**AFFIDAVIT OF STEVEN E. NURENBERG IN SUPPORT OF
AMOUNT DUE, COSTS, AND ATTORNEYS' FEES**

STATE OF FLORIDA)
)ss.
COUNTY OF COLLIER)

Steven E. Nurenberg, being duly sworn deposes and says:

1. I am an attorney licensed to practice before all courts in the States of Florida and Michigan. Additionally, I am admitted to practice in the United States District Courts for the Eastern District of Michigan, Western District of Michigan,

Middle District of Florida, Southern District of Florida and the United States Supreme Court.

2. I am over 18 years of age, have personal knowledge of all matters stated in this Affidavit and, if called as a witness, I could competently testify as to the facts stated herein.

3. I am an associate of Meuers Law Firm, P.L., counsel for Plaintiff, Giumarra International Marketing, Inc. ("Giumarra") in the above-captioned matter.

4. Since its inception in 1992, the Meuers Law Firm, P.L. has primarily represented suppliers and sellers of fresh fruits and vegetables in disputes arising under the Perishable Agricultural Commodities Act of 1930, as amended, 7 U.S.C. § 499a-t, *et seq.* ("PACA"). The firm has represented clients in hundreds of cases in the United States District Courts based upon PACA.

5. This affidavit is submitted in support of Plaintiff Giumarra's request for entry of Judgment against Defendants, ANA Distribution, Inc. and Sung (Sam) G. Kim (collectively "Defendants"), jointly and severally.

6. On June 4, 2007, Giumarra filed its Complaint against Defendants [Docket No. 1, Case No. 1:07-cv-04665-DC].

7. The Summons and Complaint in this action were properly served on Defendant ANA Distribution, Inc., by service upon an officer of the corporation, Sung (Sam) G. Kim, pursuant to Fed.R.Civ.P. 4(h)(1) on June 12, 2007 [Docket No. 3, Case No. 1:07-cv-04665-DC].

8. Defendant Sung (Sam) G. Kim, individually, was served by personal service pursuant to New York CPLR § 308(1) on June 12, 2007 [Docket No. 6, Case No. 1:07-cv-04665-DC].

9. A Notice of Appearance and Answer on behalf of Defendants were filed June 20, 2007 [Docket Nos. 8 and 9, Case No. 1:07-cv-04665-DC].

10. An Order of Consolidation was entered August 23, 2007, consolidating this case for all purposes with Case No. 1:07-cv-01887-DC [Docket No. 12, Case No. 1:07-cv-04665-DC].

11. On August 29, 2007, a Temporary Restraining Order was entered in the consolidated cases [Docket No. 23, Case No. 1:07-cv-01887-DC], and subsequent thereto on September 7, 2007, a Preliminary Injunction was ordered, enjoining Defendants and their officers, agents, servants, employees, assigns, financial institutions, and attorneys, from dissipating, disbursing, liquidating, or encumbering any and all assets [Docket No. 28, Case No. 1:07-cv-01887-DC].

12. Counsel for all parties appeared before the Court on October 19, 2007, for a hearing on Plaintiffs' Motion for Summary Judgment and, after hearing oral argument, Summary Judgment was granted by the Court.

13. There is now due and owing by Defendants to Giumarra on the debt set forth in the Complaint, the sum of \$172,156.00, plus pre-judgment and post-judgment interests, attorneys' fees, and costs.

14. Meuers Law Firm, P.L. was retained by Giumarra as counsel. Since

Meuers Law Firm, PL is located in Naples, Florida, it retained attorney Bruce Levinson of the Law Offices of Bruce Levinson, who is a member of the bar of this Court, to act as local counsel.

15. Attorney Levinson has performed work and appeared for hearings in connection with this case.

16. Attached hereto as Exhibits "A" and "B" are true and correct copies of the itemized billings for services rendered by Meuers Law Firm, PL and Law Offices of Bruce Levinson.

FIRM	AMOUNT	EXHIBIT
Meuers Law Firm, PL	\$ 15,887.00	"A"
Law Offices of Bruce Levinson	\$ 6,293.71	"B"
TOTAL	\$ 22,180.71	

17. Meuers Law Firm, PL and Law Offices of Bruce Levinson have incurred fees in the aggregate amount of \$ 22,180.71 in connection with this matter.

18. I have examined and inspected the filings of Giumarra in this matter and I am familiar with attorneys' fees for services similar to those performed herein.

19. Based upon my knowledge and experience of handling cases under PACA, it is my opinion that the rates set forth in the billing attached hereto constitute reasonable hourly rates, and that it was reasonable to expect 80.45 hours in the handling of this matter.

20. I further state that the following items of costs and disbursements by and on behalf of Plaintiff in this action are just, true and correct and have been necessarily paid and incurred by Plaintiff in the action, copies of which are attached

hereto as indicated:

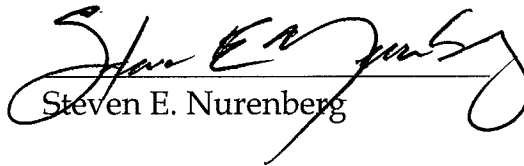
DESCRIPTION	AMOUNT	EXHIBIT
Filing Fee	\$ 350.00	"B"
Service of Process	\$ 165.00	"B"
Transcription	\$ 124.60	"B"
Postage/Photocopy	\$ 123.07	"B"
Transportation	\$ 8.00	"B"
TOTAL	\$ 770.67	

21. I have calculated pre-judgment interest through October 19, 2007, which totals \$81,238.78. My calculations are attached hereto as Exhibit "C".

22. In summary, Plaintiffs requests entry of Final Judgment in the amount of \$ 276,346.16, calculated as follows:

DESCRIPTION	AMOUNT
Principal	\$ 172,156.00
Pre-Judgment Interest	\$ 81,238.78
Fees	\$ 22,180.71
Costs	\$ 770.67
TOTAL	\$ 276,346.16

FURTHER AFFIANT SAYETH NOT.

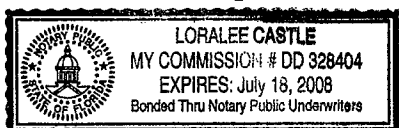

Steven E. Nurenberg

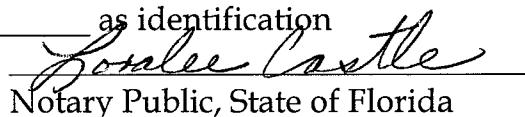
STATE OF FLORIDA)
) ss:
COUNTY OF COLLIER)

SWORN TO AND SUBSCRIBED before me this 25th day of October, 2007 by Steven E. Nurenberg, and who: *(notary must check applicable box)*

- ☒ Is personally known to me
☐ Produced a current drivers license for identification
State _____ Number _____
☐ Produced _____ as identification

My Commission Expires:




Notary Public, State of Florida